

### **REMARKS**

This Amendment is submitted in response to the Office Action mailed on November 1, 2005. With this Amendment, claims 1, 8, 17, 24, 31, and 38 are amended.

#### **Claim Rejections - 35 U.S.C. §102**

In the Office Action, claims 1-3, 5, 8-10, 12, 15-19, 21, 24-26, 28, 31-33, 35, 38-40, and 42 were rejected under 35 U.S.C. § 102(b) as being anticipated by Huebsch et al. (U.S. 5,853,422). Specifically, the Office Action stated that Huebsch discloses, "a occluding body (10) with a fixed center post (232) and floating center post (216), a plurality of puller arms (222), and first and second support frames (222)."

With this Amendment, independent claims 1, 8, 17, 24, 31, and 38 of the present invention have been amended to further clarify the structure and the operation of the invention. Specifically, claim 1 recites, "a floating center connected to the puller arms, wherein the floating center is positioned adjacent the center post when the occluding body is in its open state, and is movable away from the center post in a proximal direction to cause the puller arms to collapse the occluding body." Independent claims 8, 17, 24, 31, and 38 recite similar claim language as claim 1.

In the Huebsch device, however, you cannot move from the open position (shown in Figure 17) to the collapsed position (shown in Figure 14) by moving element 216 in a proximal direction away from element 232. Furthermore, in the partially open position of Huebsch (shown in Figure 16), any movement of element 216 in a proximal direction will bring the device to its fully open position (Figure 17) and not its collapsed position (shown in Figure 14). Also, it is not even clear if the Huebsch device can go from the fully open position (Figure 17) to the collapsed position because of the use of locking pins and locking bores. Specifically, Huebsch discloses, "distal end 216 may be locked to central portion 218 by means of distal locking pins 236 constructed and arranged to mate with central locking bores 240...and

proximal end 214 may be locked to central portion 218 by means of central locking pins 242 constructed and arranged to mate with proximal locking bores 238." (Column 6, lines 64-67 and column 7, lines 1-5).

In Figures 3a-3e of the present invention, however, to move from the fully open position (shown in Figure 3a) to the fully collapsed position (shown in Figure 3e), "the floating center...is movable away from the center post in a proximal direction to cause the puller arms to collapse the occluding body," as claim 1 recites. Therefore in order to collapse the device of the present invention, the floating center is moved away from the proximal end of the center post, in a proximal direction. The center post of the present invention, does not move with the floating center, it remains in its location, allowing the first hoop to collapse around it.

As shown in Figures 14-17 of Huebsch, element 232 is inserted into element 234 and moved in tandem with and in the same direction, in order to cause the device to go from the collapsed position (Figure 14) to the open position (Figure 17). Specifically, Huebsch discloses, "pull mechanism 230 comprises shaft 231 with distal pull bar 232, pull mechanism being constructed and arranged for insert into device 200 through proximal opening 233 and distally through distal opening 234, and rotated as shown at FIGS. 16-17...pull mechanism 230 can pull distal end 216 toward center 218 and center 218 toward proximal end 214." (Column 6, lines 42-48).

Whereas claim 1 recites, "a floating center connected to the puller arms, wherein the floating center is positioned adjacent the center post when the occluding body is in its open state, and is movable away from the center post in a proximal direction to cause the puller arms to collapse the occluding body." This is neither taught nor suggested by Huebsch.

Independent claims 1, 8, 17, 24, 31, and 38 are not anticipated by the Huebsch patent and the rejection under 35 U.S.C. §102(b) should be withdrawn. It is respectfully submitted that claims 1, 8, 17, 24, 31, and 38 are patentable on their own merits and claims 2-3, 5, 9-10, 12, 15-16, 18-19, 21, 25-26, 28, 32-33, 35, 39-40, and 42 are further allowable since they depend from a patentable independent claim. See M.P.E.P. 2143.03, citing In re Fine, 5 U.S.P.Q.2d (BNA) 1596 (Fed. Cir. 1988).

**Claim Rejections - 35 U.S.C. §103(a)**

In the Office Action, claims 6-7, 13-14, 22-23, 29-30, 36-37, and 43-44 were rejected under 35 U.S.C. § 103(a) as being unpatentable over Huebsch, in view of Forber (5,733,294). The Examiner states that Huebsch discloses the invention substantially as claimed but does not disclose that the floating and fixed center posts are constructed of platinum-iridium. Forber discloses fixed and floating center posts constructed of platinum-iridium.

Obviousness can only be established by combining or modifying the teachings of the prior art to produce the claimed invention where there is some teaching, suggestion or motivation to do so found in either the references themselves or in the knowledge generally available to one of ordinary skill in the art. M.P.E.P. 2143.01, citing In re Fine, 5 USPQ2d 1596 (CAFC 1988) and In re Jones, 21 USPQ 1941 (CAFC 1992). In addition, the prior art reference (or references when combined) must teach or suggest all the claim limitations.

Independent claims 1, 8, 17, 24, 31, and 38 (from which claims 6-7, 13-14, 22-23, 29-30, 36-37, and 43-44 depend) of the present invention have been amended to further clarify the structure and operation of the invention. As discussed above, Huebsch does not disclose the invention as defined in the amended claims and Forber does not provide the missing disclosure. It is respectfully submitted that the rejections under 35 U.S.C. § 103 should be withdrawn.

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With the above amendments and discussion, the application is now in condition for allowance, and notice to that effect is respectfully requested.

Respectfully submitted,

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